

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

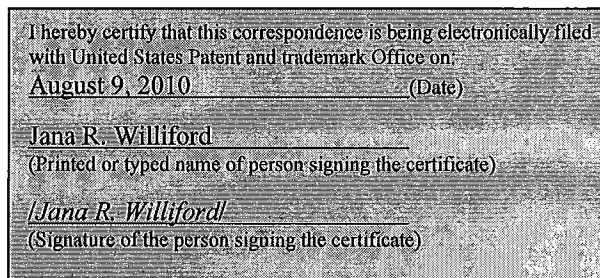
Applicant: Steven D. Curtin
Serial No.: 09/747,937
Filed: December 27, 2007
Title: ELECTRONIC WRITE PROTECT DETECTION FOR VIDEO TAPE
RECORDERS
Grp./A.U.: 2621
Examiner: Helen Shibru
Confirmation No.: 3480

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop Appeal Brief-Patents

ATTENTION: Board of Patent Appeals and Interferences

Sirs:



APPEAL BRIEF UNDER 37 C.F.R. § 41.37

This is an appeal from a Final Rejection dated January 8, 2010 (hereinafter "Office Action"), of Claims 1, 3, 5-7, 9, 11, 14, 16, 18, and 21. The Appellant submits this Brief with the statutory fee of \$540.00 as set forth in 37 C.F.R. § 41.20(b)(2), and hereby authorizes the Commissioner to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 08-2395.

This Brief contains these items under the following headings and in the order set forth below in accordance with 37 C.F.R. §41.37(c)(1):

- i) REAL PARTY IN INTEREST
- ii) RELATED APPEALS AND INTERFERENCES
- iii) STATUS OF CLAIMS
- iv) STATUS OF AMENDMENTS
- v) SUMMARY OF CLAIMED SUBJECT MATTER
- vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
- vii) APPELLANT'S ARGUMENTS
- viii) APPENDIX A – CLAIMS
- ix) APPENDIX B – EVIDENCE
- x) RELATED PROCEEDINGS APPENDIX

i) REAL PARTY IN INTEREST

The real party in interest in this appeal is the Assignee, LSI Logic Corporation.

ii) RELATED APPEALS AND INTERFERENCES

Appellant does not know of any prior or pending Appeals, Interferences, or Judicial Proceedings directly related to, affecting, affected by, or having a bearing on the Board's decision in this appeal.

iii) STATUS OF THE CLAIMS

Claims 1, 3, 5-7, 9, 11, 14, 16, 18, and 21 are rejected. Claims 2, 4, 8, 10, 12-13, 15, 17, 19-20, and 22 are withdrawn.

Herein, all rejections of Claims 1, 3, 5-7, 9, 11, 14, 16, 18, and 21 are being appealed.

iv) STATUS OF THE AMENDMENTS

No amendments have been made to the Office Action and no amendments are pending.

v) SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 features an electronic write protect apparatus for storage media. The write protect apparatus comprises at least one record element, a pre-existing information signal detection element, and a record deactivation circuit. The at least one record element writes information to a given magnetic storage media. The pre-existing electronic information signal detection element detects a pre-existing electronic information signal stored on the given magnetic storage media. The record deactivation circuit prevents recording on the given magnetic storage

media when the pre-existing electronic information signal detection element detects the pre-existing electronic information signal stored on the given magnetic storage media. The deactivation occurs at or about a time of occurrence of the detection of the pre-existing information signal. (*See, e.g.*, line 22 of page 5 through line 29 of page 6 and Fig. 1 of the original specification.)

Independent Claim 9 relates to an electronic write protect method for a storage media. The write protect method comprises attempting to record information on a given video tape placed in a video cassette player, detecting a pre-existing video signal from the given video tape, and deactivating a record circuit in the video cassette player at or about a time of occurrence of the detection of the pre-existing signal. (*See, e.g.*, lines 3-22 of page 9 and Fig. 4 of the original specification.)

Independent Claim 16 is directed to an electronic write protect means for storage media. The write protect means comprises a means for attempting to record information on a given video tape placed in a video tape player, a means for detecting a pre-existing video signal from the given video tape, and a means for deactivating a record circuit in the video cassette player at or about a time of occurrence of the detection of the pre-existing signal. (*See, e.g.*, line 22 of page 5 through line 29 of page 6 and Fig. 1 of the original specification.)

vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(A) Whether Claim 1 is obvious over a combination of U.S. Patent No. 5,936,786 to Go (hereinafter “Go”) in view of U.S. Patent No. 5,877,906 to Nagasawa, *et al.* (hereinafter “Nagasawa”) as applied by the Office Action at item 4, pages 4-5.

(B) Whether Claims 3 and 5-7 are obvious over the combination of Go in view of Nagasawa as applied by the Office Action at item 4, pages 5-6.

(C) Whether Claim 1 is obvious over a combination of U.S. Patent No. 6,442,108 to Kurihara, *et al.* (hereinafter “Kurihara”) in view of Go and further in view of Nagasawa as applied by the Office Action at item 5, pages 6-8.

(D) Whether Claims 3 and 5-7 are obvious over the combination of Kurihara in view of Go and further in view of Nagasawa as applied by the Office Action at item 5, page 8.

(E) Whether Claim 9 is obvious over a combination of Kurihara in view of Official Notice and further in view of Nagasawa as applied by the Office Action at item 6, pages 8-9.

(F) Whether Claim 16 is obvious over the combination of Kurihara in view of Official Notice and further in view of Nagasawa as applied by the Office Action at item 6, page 10.

(G) Whether Claims 11, 14, 18, and 21 are obvious over the combination of Kurihara in view of Official Notice and further in view of Nagasawa as applied by the Office Action at item 6, page 9.

vii) APPELLANT’S ARGUMENT

(A) In Grounds of Rejection (A), the obviousness rejection of Claim 1 is improper because the teachings of Go and Nagasawa are not sufficient to render Claim 1 *prima facie* obvious.

Independent Claim 1 recites:

An electronic write protect apparatus for storage media comprising:

...

a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media, said deactivation occurring at or about a time of occurrence of said detection of said pre-existing information signal.

At item 4 on the middle of page 5 of the Office Action, the Examiner states:

claim 1 differs from Go in that the claim further requires the said deactivation occurring at or about a time of occurrence of said detection of said pre-existing signal.

In the same field of endeavor Negasawa (*sic*) teaches deactivating recording operation at or about a time of detecting pre-existing information signal...

Thus, the Examiner recognizes that Go is deficient in that it does not teach or suggest deactivating at or about a time of occurrence of a detection of a pre-existing signal and asserts that Nagasawa cures these deficiencies of Go.

Go teaches an apparatus and method to protect information recorded on a recording medium by determining blank portions of the recording medium for recordation of new information. To accomplish this, Go teaches scanning an entire medium and detecting the presence of a control pulse which corresponds to a recorded portion of the medium and determining a portion of the recording medium where a control pulse is not detected which corresponds to an unrecorded portion of the medium. In step 230 of Fig. 2, Go teaches that "a blank portion on which new information may be recorded is selected from among the detected portions." (*See, e.g.,* lines 24-46 of column 2 of Go.)

Go is explicit that the blank portion of the recording medium to be used to for recording new information is "selected from among the detected portions." There is no teaching that Go selects the first (or last for that matter) blank portion of the recorded medium to record the new information. On the contrary, Go, at lines 49-50 of column 2, teaches "the head is positioned at the starting point of the selected blank region" (emphasis added). Go does not teach that the head is position to the starting point of *any* blank region. As such, the principle of operation of Go is to scan an entire recording medium, detect control pulses that mark used portions of the recording medium, select a portion of the recording medium where no control pulses were detected, and position a recording head at the selected portion of recording medium to record new information.

As such, the principle of operation of Go is to scan an entire recording medium (recording deactivated while the scanning occurs) for control pulses that mark portions of the recording medium that include existing information, positioning a recording head to a selected portion of the recording medium where there is no information, and then activating recording. Thus, recording is deactivated while the recording medium is scanned and the recording head is positioned to a selected portion of the recording medium. Modifying Go to deactivate recording at or about the time of occurrence of a control pulse, thereby NOT scanning the entire medium first, would clearly change the principle of operation of Go. MPEP §2143.01 states “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). As such, the cited portions of the cited combination of Go and Nagasawa, as applied by the Examiner, do not establish a *prima facie* case of obviousness of independent Claim 1 and the rejection is improper.

(B) In Grounds of Rejection (B), the obviousness rejections of Claims 3 and 5-7 over the cited combination of Go and Nagasawa are improper.

Claims 3 and 5-7 are non-obvious over the cited portions of the cited combination of Go and Nagasawa, as applied by the Examiner, at least by their dependence of pending independent Claim 1.

(C) In Grounds of Rejection (C), the obviousness rejection of Claim 1 over the cited portions of the cited combination of Kurihara, Go, and Nagasawa is improper.

As established in Section (A) above, the cited portions of the cited combination of Go and Nagasawa, as applied by the Examiner, does not render pending independent Claim 1 *prima facie* obvious. Kurihara has not been cited to cure the above-noted deficiencies of the cited combination

of Go and Nagasawa. As such, the cited portions of the cited combination of Kurihara, Go, and Nagasawa do not render pending independent Claim 1 *prima facie* obvious and, therefore, the rejection is improper.

(D) In Grounds of Rejection (D), the obviousness rejections of Claims 3 and 5-7 over the cited combination of Kurihara, Go, and Nagasawa are improper.

Claims 3 and 5-7 are non-obvious over the cited portions of the cited combination of Kurihara, Go, and Nagasawa, as applied by the Examiner, at least by their dependence of pending independent Claim 1.

(E) In Grounds of Rejection (E), the obviousness rejection of Claim 9 over Kurihara, Official Notice, and Nagasawa is improper because it relies on Kurihara to teach features that are not taught in the cited portions of Kurihara.

Independent Claim 9 recites:

An electronic write protect method for a storage media comprising:

...

deactivating a record circuit in said video cassette player at or about a time of occurrence of said detection of said pre-existing signal.

Thus, pending independent Claim 9 recites a method where a record circuit is deactivated at or about the time of occurrence of detecting a pre-existing signal.

At item 6 on the bottom of page 8 of the Office Action, the Examiner states:

Regarding claim 9, Kurihara discloses an electronic write protect method for storage media comprising:...and deactivating a record circuit in the said cassette player (see figure 2, figure 6, S1-06 and S1-13, when the tape is not blank, the data is not recorded at the selected position, Note also that S1-6 and the S1-7 to S1-12 is not processed (not activated) if the tape is not a blank tape, i.e. S17-S1-12 is deactivated).

Kurihara teaches that a determination of whether a tape is blank is made based on whether a table of contents (TOC) exists or not. However, if there is not a TOC (indicating that the tape is

blank), Kurihara does not teach to deactivate recording as the Examiner asserts. If there is not a TOC, Kurihara teaches recording in step S1-8. As such, Kurihara teaches that upon detection of a pre-existing signal (equated to as whether the tape is blank by the Examiner) recording is activated. Further, the Examiner states that “S1-6 and then S1-7 to S1-12 is not processed (not activated) if the tape is not a blank tape.” Fig. 6 of Kurihara teaches that if the tape is not a blank tape, then recording begins in step S1-15. Again, Kurihara teaches that upon detection of a pre-existing signal recording is activated. Thus, Kurihara does NOT teach the limitation of deactivating a record circuit as detection of a pre-existing occurs as recited in pending independent Claim 9.

Neither Official Notice nor Nagasawa has been cited to cure the above-noted deficiencies of Kurihara. As such, the cited portions of Kurihara in combination with Official Notice and the cited portions of Nagasawa, as applied by the Examiner, does not provide a *prima facie* case of obviousness for pending independent Claim 9. Therefore, the rejection is improper.

(F) In Grounds of Rejection (F), the obviousness rejection of Claim 16 over Kurihara, Official Notice, and Nagasawa is improper.

As established above, the cited portions of the cited combination of Kurihara, Official Notice, and Nagasawa, as applied by the Examiner, do not provide a *prima facie* case of obviousness for pending independent Claim 9. For at least the same reasons, the cited portions of the cited combination of Kurihara, Official Notice, and Nagasawa, as applied by the Examiner, do not provide a *prima facie* case of obviousness for pending independent Claim 16. Therefore the rejection is improper.

(G) In Grounds of Rejection (G), the obviousness rejections of Claims 11, 14, 18, and 21 are improper.

CLAIMS 11 and 14

Claims 11 and 14 are non-obvious over the cited portions of the cited combination of Kurihara, Official Notice, and Nagasawa, as applied by the Examiner, at least by their dependence on pending independent Claim 9.

CLAIMS 18 and 21

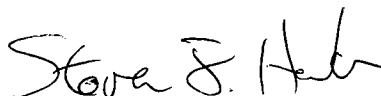
Claims 18 and 21 are non-obvious over the cited portions of the cited combination of Kurihara, Official Notice, and Nagasawa, as applied by the Examiner, at least by their dependence on pending independent Claim 16.

CONCLUSION

For the reasons set forth above, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the present application.

Respectfully submitted,

HITT GAINES, P.C.



Steven J. Hanke
Registration No. 58,076

Dated: August 9, 2010

Hitt Gaines, PC
P. O. Box 832570
Richardson, Texas 75083-2570
(972) 480-8800
(972) 480-8865 (Fax)
steve.hanke@hittgaines.com

viii) APPENDIX A – CLAIMS

1. (Previously Presented) An electronic write protect apparatus for storage media comprising:

at least one record element for writing information to a given magnetic storage media;

a pre-existing electronic information signal detection element to detect a pre-existing electronic information signal stored on said given magnetic storage media; and

a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media, said deactivation occurring at or about a time of occurrence of said detection of said pre-existing information signal.

2. (Withdrawn)

3. (Previously Presented) The electronic write protect apparatus for storage media according to claim 1, wherein:

said at least one record element is attached to a spinning element.

4. (Withdrawn)

5. (Previously Presented) The electronic write protect apparatus for storage media according to claim 3, wherein:

said pre-existing electronic signal detection element is attached to said spinning element.

6. (Previously Presented) The electronic write protect apparatus for storage media according to claim 1, wherein:

said given magnetic storage media is a video tape.

7. (Previously Presented) The electronic write protect apparatus for storage media according to claim 1, wherein:

said given magnetic storage media stores digital information.

8. (Withdrawn)

9. (Previously Presented) An electronic write protect method for a storage media comprising:

attempting to record information on a given video tape placed in a video cassette player;

detecting a pre-existing video signal from said given video tape; and

deactivating a record circuit in said video cassette player at or about a time of occurrence of said detection of said pre-existing signal.

10. (Withdrawn)

11. (Previously Presented) The electronic write protect method for storage media according to claim 9, wherein:

said attempting to record information is performed by a spinning record element.

12.-13. (Withdrawn)

14. (Previously Presented) The electronic write protect method for storage media according to claim 9, wherein:

said video tape stores digital information in magnetic form.

15. (Withdrawn)

16. (Previously Presented) An electronic write protect means for storage media comprising:

means for attempting to record information on a given video tape placed in a video cassette player;

means for detecting a pre-existing video signal from said given video tape; and

means for deactivating a record circuit in said video cassette player at or about a time of occurrence of said detection of said pre-existing signal.

17. (Withdrawn)

18. (Previously Presented) The electronic write protect means for storage media according to claim 16, wherein:

said means for attempting to record information is performed by a spinning record element.

19.-20. (Withdrawn)

21. (Previously Presented) The electronic write protect means for storage media according to claim 16, wherein:

said video tape stores digital information in magnetic form.

22. (Withdrawn)

ix) APPENDIX B – EVIDENCE

The evidence in this appendix includes U.S. Patents to Go, Nagasawa, and Kurihara. Kurihara was entered in the record by the Examiner with the October 1, 2008 Office Action. Go was entered in the record by the Examiner with the March 19, 2009 Office Action. Nagasawa was entered in the record by the Examiner with the July 9, 2009 Office Action.

x) RELATED PROCEEDINGS APPENDIX

NONE